

# House Study Bill 687

HOUSE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
JUDICIARY BILL BY  
CHAIRPERSON SWAIM)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to deferred judgment criminal records.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
3 TLSB 5972HC 82  
4 jm/nh/5

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1 1 Section 1. Section 907.4, Code 2007, is amended to read as  
1 2 follows:  
1 3 907.4 DEFERRED JUDGMENT DOCKET.  
1 4 1. A deferment of judgment under section 907.3 shall be  
1 5 entered promptly by the clerk of the district court, or the  
1 6 clerk's designee, into the deferred judgment database of the  
1 7 state, which shall serve as the deferred judgment docket. The  
1 8 deferred judgment docket shall be maintained by the state

1 9 court administrator and shall not be destroyed. The docket  
1 10 shall contain a permanent record of the deferred judgment  
1 11 including the name and date of birth of the defendant, the  
1 12 district court docket number, the nature of the offense, and  
1 13 the date of the deferred judgment. Before granting deferred  
1 14 judgment in any case, the court shall search the deferred  
1 15 judgment docket and shall consider any prior record of a  
1 16 deferred judgment against the defendant.  
1 17 2. The permanent record provided for in ~~this section~~  
1 18 subsection 1 is a confidential record exempted from public  
1 19 access under section 22.7 and shall be available only to  
1 20 justices of the supreme court, judges of the court of appeals,  
1 21 district judges, district associate judges, judicial  
1 22 magistrates, clerks of the district court, judicial district  
1 23 departments of correctional services, county attorneys, and  
1 24 the department of corrections requesting information pursuant  
1 25 to this section, or the designee of a justice, judge,  
1 26 magistrate, clerk, judicial district department of  
1 27 correctional services, or county attorney, or department.

1 28 Sec. 2. NEW SECTION. 907.4A EXPUNGED CRIMINAL RECORDS OF  
1 29 THE COURT == ACCESS.

1 30 After the clerk of the district court has promptly entered  
1 31 the portions of the court's criminal record into the deferred  
1 32 judgment database as required under section 907.4, the clerk  
1 33 of the district court shall expunge the court's entire  
1 34 criminal record of the deferred judgment by segregating the  
1 35 record into a separate area or database. The court's entire  
2 1 criminal record of the deferred judgment shall be considered a  
2 2 confidential record exempt from public access under section  
2 3 22.7 but shall be made available by the clerk of the district  
2 4 court, upon request and without court order, to the agencies  
2 5 or persons granted access to the deferred judgment docket  
2 6 under section 907.4, subsection 2.

2 7 Sec. 3. Section 907.9, subsection 4, Code 2007, is amended  
2 8 to read as follows:

2 9 4. At the expiration of the period of probation and if the  
2 10 fees imposed under sections 815.9 and 905.14 have been paid or  
2 11 on condition that unpaid supervision fees be paid, the court  
2 12 shall order the discharge of the person from probation, and  
2 13 the court shall forward to the governor a recommendation for  
2 14 or against restoration of citizenship rights to that person.  
2 15 A person who has been discharged from probation shall no  
2 16 longer be held to answer for the person's offense.

2 17 4A. Upon discharge from probation, if judgment has been  
2 18 deferred under section 907.3, the court's criminal record with  
2 19 reference to the deferred judgment shall be expunged as

~~2 20 provided in section 907.4A. The record maintained by the~~  
~~2 21 state court administrator as required by section 907.4 shall~~  
~~2 22 not be expunged.~~ The court's record shall not be expunged in  
2 23 any other circumstances unless otherwise authorized by law.

2 24 EXPLANATION

2 25 This bill relates to deferred judgment criminal records.

2 26 The bill provides that after the clerk of the district  
2 27 court has promptly entered the portions of the court's  
2 28 criminal record into the deferred judgment database as  
2 29 required under Code section 907.4, the clerk of the district  
2 30 court shall expunge the court's entire criminal record of the  
2 31 deferred judgment by segregating the record of the deferred  
2 32 judgment into a separate area or database.

2 33 Under the bill, the court's entire criminal record of the  
2 34 deferred judgment segregated into a separate area or database  
2 35 shall be considered a confidential record exempt from public  
3 1 access under Code section 22.7 but shall be made available by  
3 2 the clerk of the district court, upon request and without  
3 3 court order, to the agencies or persons granted access to the  
3 4 deferred judgment docket under Code section 907.4.

3 5 Currently, the court's criminal record relating to a  
3 6 deferred judgment is expunged, but a record of the deferred  
3 7 judgment is made permanent. The permanent record under  
3 8 current law includes the name and date of birth of the  
3 9 defendant, the district court docket number, the nature of the  
3 10 offense, and the date of the deferred judgment.

3 11 The bill strikes a provision in Code section 907.9  
3 12 requiring the state court administrator to maintain deferred  
3 13 judgment records and moves the provision to Code section  
3 14 907.4.

3 15 The bill also provides that the court's record shall not be  
3 16 expunged unless otherwise authorized by law. Current law  
3 17 authorizes criminal records to be expunged under Code sections  
3 18 123.46, 321.211A, and 321.385A.

3 19 LSB 5972HC 82

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